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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

12 CATALYST INC.,

Case No.

13 Plaintiff,

COMPLAINT

14 v.

15 EMPATHY CATALYST CONSULTING,

16 Defendant.

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COMPLAINT

Plaintiff Catalyst Inc. (“Catalyst”), by and through its attorneys, Debevoise & Plimpton LLP, bring this action against Defendant Empathy Catalyst Consulting (“Empathy Catalyst”) (collectively, the “Parties”) and in support thereof alleges as follows:

PRELIMINARY STATEMENT

6 1. This action arises from Empathy Catalyst’s use of Catalyst’s federally registered
7 CATALYST trademarks for nearly identical services. Although Catalyst appreciates Empathy
8 Catalyst’s mission to foster diversity, equity, and inclusion in the workplace, Empathy Catalyst’s
9 use of the CATALYST mark for its services is likely to cause confusion with Catalyst in the
10 marketplace and weaken Catalyst’s trademark and goodwill. Empathy Catalyst has been
11 unresponsive to Catalyst’s sustained efforts over the past two and a half years to resolve this
12 dispute amicably outside of litigation, and Catalyst therefore is forced to bring this lawsuit to
13 protect its CATALYST trademarks and prevent confusion as to the source of Empathy Catalyst’s
14 services.

15 2. Catalyst is a global advisory, consulting, and research nonprofit organization that
16 has been working to build inclusive environments and expand opportunities for women in
17 business and the professions for over 60 years. Founded in 1962, Catalyst has a broad mission
18 informed by the idea that “workplaces that work for women work for everyone.” Catalyst also
19 believes that creating true workplace inclusion requires remedying inequities across intersections
20 of identities (such as gender, race, ethnicity, culture, sexual orientation, and gender identity). To
21 these ends, Catalyst provides advisory and consulting services and materials on diversity, equity,
22 and inclusion (“DEI”) to more than 400 public companies, private business, and other
23 organizations so that women, including women from racially and ethnically marginalized groups,
24 and other underrepresented individuals can advance and thrive. Catalyst provides educational
25 and consulting materials on its website (<www.catalyst.org>); hosts in-person events, webinars,
26 and annual conferences; and publishes its research findings, all in connection with the
27 CATALYST marks.

28 3. Catalyst's DEI-focused events and materials concern topics such as: empathy;

1 building inclusive workplaces; unconscious bias; combatting racism and sexism in the
2 workplace; race, ethnicity, and culture; women of color; LGBTQ+ and transgender issues and
3 inclusion in the workplace; intersectionality; and allyship.

4 **4.** As part of its global reach, Catalyst has maintained an entity in Canada since
5 2000, works with many Canadian supporters (i.e., organizations that have access to Catalyst's
6 full website content in exchange for a yearly donation, some of whom additionally use Catalyst's
7 fee-for-service offerings such as facilitated workshops and speaking engagements), hosts live
8 and virtual events in and specific to Canada, and produces Canada-specific research reports and
9 other advisory content.

10 **5.** Catalyst additionally has an active social media presence, on Instagram
11 (@catalystinc), YouTube (@CatalystClips), and LinkedIn (Catalyst Inc.) among other platforms,
12 and uses these platforms to promote the events, workshops, and publications described above, as
13 well as other DEI-related topics. Catalyst also promotes its Canadian events and content through
14 these platforms.

15 **6.** Catalyst has registered the CATALYST trademark for a wide variety of goods
16 and services related to its mission of empowering women in the workplace and promoting DEI,
17 including consulting services, publications, and conferences. Its CATALYST mark has been
18 registered since 1984 and is incontestable. Catalyst's CATALYST mark is also registered in
19 Canada, as well as in other regions.

20 **7.** Empathy Catalyst is a company that also provides consultancy services focused
21 on DEI. Founded in 2021, Empathy Catalyst "specializes in diversity, equity, inclusion, and
22 workplace culture" and "provide[s] education, consultation, facilitation, mediation, and
23 coaching."

24 **8.** Through workshops, facilitated conversations, mediations, and one-on-one
25 coaching, Empathy Catalyst addresses topics such as: combatting unconscious bias through
26 empathy; creating inclusive spaces; allyship; and increasing workplace diversity. Empathy
27 Catalyst promotes these services on its website (<empathycatalystconsulting.com>) using the
28 CATALYST mark as part of Empathy Catalyst's name.

9. Empathy Catalyst is based in Vancouver, Canada, and has clients in both Canada and the United States, including in Northern California.

10. Empathy Catalyst uses the CATALYST mark in connection with events in both the United States and Canada, which it promotes using its social media platforms, including Instagram (@empathycatalystconsulting) and Facebook.

11. Empathy Catalyst also uses its social media platforms to disseminate content regarding unconscious bias, empathy, DEI generally, intersectionality, and support for women, particularly women of color.

12. Catalyst is concerned that Empathy Catalyst's use of CATALYST will confuse organizations and businesses into believing that Empathy Catalyst's services are organized or sponsored by, or otherwise affiliated with, Catalyst.

13. On information and belief, given Catalyst's renown in the DEI field in both Canada and the United States, Empathy Catalyst likely was on actual notice of Catalyst and its CATALYST trademark when it adopted the Empathy Catalyst name (and certainly would have been had it conducted an appropriate trademark search). Regardless, as a matter of United States trademark law, Empathy Catalyst was on constructive notice of Catalyst's rights.

14. For these reasons, Empathy Catalyst's use of the CATALYST trademark constitutes trademark infringement under the Lanham Act, California state law, and common law.

PARTIES

15. Catalyst Inc. is a not-for-profit consulting organization organized under the laws of Ohio, with its principal place of business at 120 Wall Street, 15th Floor, New York, NY 10005.

16. Upon information and belief, Empathy Catalyst Consulting is a for-profit consulting firm that has its principal place of business in Vancouver, Canada, postal code V6B 6L4. Empathy Catalyst does not have a publicly available mailing address and, upon information and belief, does not maintain a registered business entity with the Canadian government or its subdivisions.

JURISDICTION

17. This Court has original jurisdiction over the subject matter of this action under 15 U.S.C. § 1121(a) (Lanham Act); 28 U.S.C. §§ 1331 (federal question) and 1338(a) (trademark); and 28 U.S.C. § 1367 (supplemental jurisdiction). There is an actionable justiciable controversy between the Parties arising under at least the Lanham Act, 15 U.S.C. §§ 1114(1) and 1125(a).

18. This Court has supplemental jurisdiction over the related state law claims that arise out of the same set of operative facts as the federal claims.

19. This Court has personal jurisdiction over Empathy Catalyst because, upon information and belief, Empathy Catalyst regularly transacts, targets, and conducts business with clients that are based in and/or operate in this District, such as Big West Rotaract Foundation and The Ready.

20. Venue is proper in this District under 28 U.S.C. § 1391(b) and (c) because Empathy Catalyst is subject to personal jurisdiction in this District.

DIVISIONAL ASSIGNMENT

21. Venue for this intellectual property case is proper in any Division of this District under General Order No. 44 § D.3 and L.R. 3-2(c).

STATEMENT OF FACTS

I. Catalyst's Longstanding Protection of its Trademarks in the DEI Space

22. For more than half a century (since 1962), Catalyst has been at the forefront of organizations working to empower women in the workplace and to support diversity, equity, and inclusion (“DEI”). Focusing particularly on women, Catalyst also addresses intersectionality (i.e., women from racially and ethnically marginalized groups), as well as other underrepresented individuals. Under its CATALYST trademark, Catalyst

- a. works directly with the CEOs, directors and top management of its partner companies to create a workplace that supports gender diversity;
- b. provides live and on-line workshops, conferences, seminars, and other speaking engagements to educate individuals and the companies for which they work;
- c. publishes books, newsletters, videos, infographics, articles, statistics and data,

1 interactive tools, DEI best practices, and other media as resources for companies
2 seeking to promote diversity and for women seeking to advance in their careers;

3 d. conducts research and publishes reports on the issues surrounding gender
4 diversity; and
5 e. has launched initiatives to engage men and foster greater inclusion in the
6 workplace.

7 **23.** Catalyst's live and virtual events, workshops, publications, and other solutions for
8 promoting DEI in the workplace cover topics including, but not limited to: using empathy to
9 build inclusive workplaces; imposter syndrome in male-dominated workplaces; bystander
10 intervention to disrupt racial and ethnic microaggressions and sexual harassment; allyship to
11 support individuals of color and LGBTQIA+ individuals; intersectionality and understanding
12 oppression; understanding and combatting unconscious bias to provide equitable approaches in
13 the workplace, particularly for underrepresented employees; and antiracism.

14 **24.** While Catalyst's other services and published materials are broadly applicable,
15 Catalyst tailors its fee-for-service products and solutions—such as facilitated workshops,
16 speaking engagements, and licensing of Catalyst's proprietary training materials—to the needs of
17 each Catalyst client, including individualized examples and action plans.

18 **25.** Catalyst's services are not limited to the United States—Catalyst also offers these
19 services in numerous other countries, including Canada—always in connection with its
20 CATALYST mark.

21 **26.** Catalyst has maintained a Canadian entity since 2000, and currently provides its
22 services to some 200 organizations throughout that country. The average Canada-based Catalyst
23 supporter has been supporting Catalyst for ten years. Catalyst has many supporters that operate
24 in Vancouver or in British Columbia more broadly, some of which include Ernst & Young, Teck
25 Resources Limited, KPMG, Accenture, and BCI.

26 **27.** Catalyst hosts various live events in Canada, including the Catalyst Honours—
27 which since 2010 has annually recognized Canadian business leaders for excellence in DEI—and
28 roundtables on topics such as fostering inclusive environments to promote diversity. Some of

1 Catalyst's live events in Canada take place in Vancouver, such as Catalyst's recent roundtable on
2 the impact of artificial intelligence on equity in the workplace. In addition to the two in-person
3 events that Catalyst hosted in Vancouver in 2023, Catalyst plans to host additional live events in
4 Vancouver in 2024.

5 **28.** Catalyst also hosts virtual Canada-focused events, which participants in Canada
6 attend. It has hosted virtual Canadian roundtables, events, and panels on topics such as: empathy
7 as a "superpower" in the workplace; building inclusion for indigenous peoples in Canadian
8 workplaces; celebrating intersectionality; racism in the workplace; equity and inclusion in the
9 workplace; inclusive talent acquisition; and allyship in the workplace.

10 **29.** Moreover, all of Catalyst's fee-for-service offerings are open to supporters in
11 Canada. For example, Catalyst has a number of supporters in Canada who participate in
12 Catalyst's workshops and speaking engagements and license Catalyst's training materials.

13 **30.** Additionally, Catalyst undertakes Canada-specific research and publishes data-
14 driven reports on topics such as: people of color in Canadian workplaces and education; building
15 inclusion for indigenous peoples in Canadian workplaces; inclusive leadership; and the work/life
16 divide in Canada.

17 **31.** Catalyst publicizes and provides the abovementioned events and publications on
18 its website, <www.catalyst.org>, which, just like Catalyst's design mark, features Catalyst's
19 signature royal blue color.

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In Good Company: The Power of Empathy at Work

Join In Good Company for a discussion moderated by Raine Lilifeldt, Director of Member Services & Development, YWCA Canada, with guest panelists, Tara Van Bommel, PhD, Director, Statistician, Catalyst, and [...]

[Events](#) Empathy

November 18, 2021 English

A Conversation on Unconscious Bias (APAC Webinar Recording)

How can leaders work toward eliminating gender and racial bias in their organization? Learn more about the development tools every manager should be equipped with to ensure equal opportunities are provided to all. Tina Arcilla Head, Diversity & Inclusion in Asia Network (DIAN) Community Business

[Research](#) Emotional Tax Unconscious Bias Supporter Only

November 17, 2021 Asia Australia China India Japan English

5 Ways to Advance Gender Equity in Small and Medium Sized Enterprises (roundtable recording)

Want to learn more about how small and medium enterprises can rebuild from the pandemic and advance gender equity? Watch this panel discussion moderated by proud Metis entrepreneur, consultant, speaker, connector and community builder, Shannon Pestun. In Good Company (IGC) is a collaborative of four national and international organizations focused on...

[Research](#) Supporter Only

November 17, 2021 Canada English

Racism in the Workplace: Expert Voices From Around the World (Report)

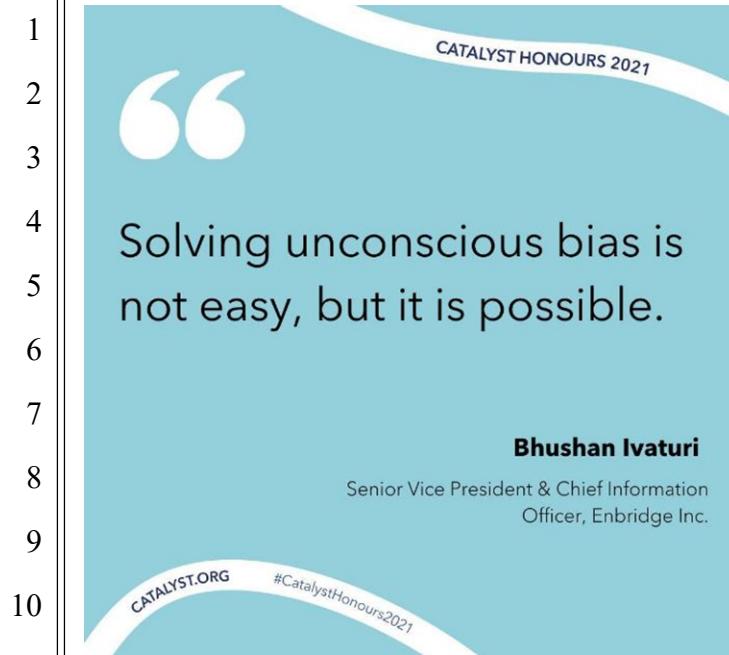
21 business leaders and scholars reveal the persistence of racism –and what we can do to move forward.

[Interactive Reports](#) Emotional Tax Race, Ethnicity, and Culture

November 12, 2021 Global English French Spanish

32. All of Catalyst's published website content is available for Catalyst supporters to access without any additional payment aside from their yearly donation, and much of this content is available to the public for free.

33. Additionally, Catalyst maintains an active social media presence using its CATALYST mark, including accounts on Instagram (@catalystinc), YouTube (@CatalystClips), and LinkedIn (Catalyst Inc.) that it uses to share content related to the events, workshops, and publications described above.



catalystinc • Follow ...

catalystinc #CatalystHonours2021 Champion Bhushan Ivaturi, Senior Vice President & Chief Information Officer, Enbridge Inc., shared tips on how to challenge unconscious bias:

- Use rituals to hold yourself accountable.
- Mind your language.
- Be transparent with good intent.
- Help turn bystanders to upstanders.
- Be kind when people are code-switching: recognize the emotional tax involved in that.

Ivaturi also shared hacks on how to combat unconscious bias in hiring:

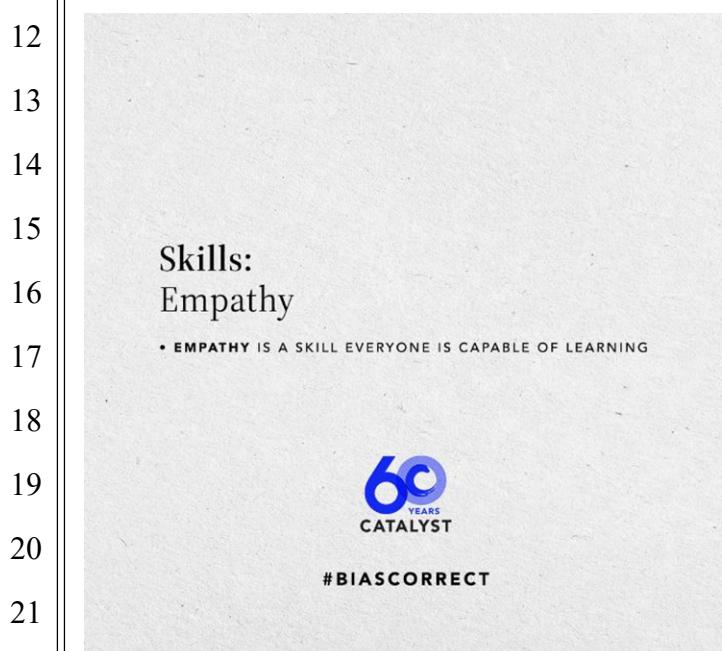
- Remember that there are no easy outs.
- Focus on the quality of decisions, not the speed of decisions.
- Measure how your organization is doing.

#CatalystHonours2021 #HumanityAtWork
105w

hearherstories THIS! 🎧

41 likes OCTOBER 28, 2021

Add a comment... Post



catalystinc • Follow ...

catalystinc Are you an #EmpathicLeader? Take our #Empathy Quiz to see how you score and learn how you can build upon your skills.

Why empathy? Because a culture of empathetic leadership is key to supporting #GenderEquity at work and contributes to more #inclusive workplace experiences. It's also a critical business skill that helps drive employee innovation, engagement, and reduces employee burnout.

Take the #quiz and promote yourself to CEO (Chief Empathy Officer) today. #LinkInBio.
86w

paulgunnjr 85w Reply

18 likes MARCH 10, 2022

Add a comment... Post



catalystinc • Follow ...

catalystinc #WomenofColor face biases and challenges in the workplace that white women do not.

They can experience mistreatment based on the intersections of sexism AND racism. Every leader needs to know the term intersectionality and understand how it impacts privilege, oppression, power, and marginalization.

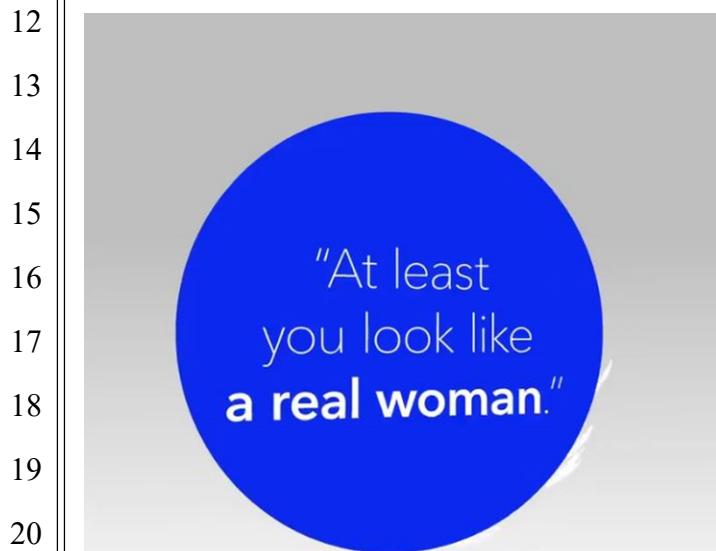
In the workplace, organizations MUST approach #DEI from an intersectional lens. Start by:

1. Creating more opportunities for employees to self-identify.
2. Taking stock of what #DEI data you are collecting and what's missing.
3. Evaluating hiring, promotion, and retention trends over time.
4. Knowing that simply having a strong representation of #WomenOfColor does not automatically equate to inclusion.

Learn more at link in bio.

43 likes JUNE 21, 2022

Add a comment... Post



catalystinc • Follow ...

catalystinc Want to be a better ally to the transgender community? Or, do you want your coworkers to be better allies?

Even people with the best intentions can use hurtful words that reinforce negative stereotypes.

Learn how to #FlipTheScript - link in bio.

#pride #pridemonth #pride2022 #pride🌈

73w

bab.a4678 Wow 😊 send pic to @Shades_of_rainbow 73w Reply

pooja36756 Send pic on 🌈 @star_of_rainbow 73w Reply

310 views JUNE 10, 2022

Add a comment... Post

34. Catalyst's social media accounts underscore Catalyst's substantial presence, and use of its CATALYST mark, in Canada:

a. From around fall 2023 through winter 2024, the banner image of Catalyst's YouTube account (@CatalystClips) promoted Catalyst's "Catalyst Honours," a conference and dinner that occurred in Toronto, Canada, and online, on November 15, 2023. This event has been running annually for the past thirteen

1 years, and is also the subject of a featured video on Catalyst's YouTube page.

2 b. Catalyst also published several Instagram posts promoting the same annual
3 "Catalyst Honours" event, as it did in past years as well.

4 c. Catalyst's Instagram features posts on Canadian issues and events, such as
5 Canada's National Day for Truth and Reconciliation.

6 **35.** Catalyst is the owner of numerous federal registrations and applications for the
7 CATALYST mark and for other marks containing the CATALYST mark (together, the
8 "CATALYST Marks"). A partial list of Catalyst's federal trademark registrations, many of
9 which have become incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065,
10 follows below.

Mark	Registration Number	Goods/Services
CATALYST	1,265,713	Publications-namely, books, brochures and newsletters devoted to expanding career options for women and the problems of the two career family; promoting interests of women who desire business and professional career
CATALYST	4,204,717	Downloadable audio files, video files, data files, and electronic publications in the nature of books, newsletters, articles, and reports, and DVDs and CDs all featuring educational and training information devoted to promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace
CATALYST	4,208,904	Education services, namely, providing live and on-line seminars, discussions, speaking engagements, conferences, and symposia in the field of promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace
CATALYST	4,216,590	Advisory, consulting and business, public policy, and economics research services in the field of promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace

Mark	Registration Number	Goods/Services
CATALYST	4,220,626	Publications, namely, books, brochures, and newsletters in the field of promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace
CATALYSTX	5,221,554	Educational services, namely, providing online courses in the field of leadership, diversity and inclusion in the workplace
CATALYST WOMEN ON BOARD	5,428,802	Providing professional networking services, namely, connecting women executives with experienced corporate board members; promoting the representation of women on corporate boards
 CATALYST	5,512,858	Publications, namely, books, brochures, and newsletters in the field of promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace
 CATALYST	5,512,859	Advisory, consulting and business, public policy, and economics research services in the field of promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace
 CATALYST	5,512,860	Education services, namely, providing live and on-line seminars, discussions, speaking engagements, conferences, and symposia in the field of promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace
 CATALYST WORKPLACES THAT WORK FOR WOMEN	5,512,863	Publications, namely, books, brochures, and newsletters in the field of promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace

Mark	Registration Number	Goods/Services
 CATALYST <small>WORKPLACES THAT WORK FOR WOMEN</small>	5,512,865	Advisory, consulting and business, public policy, and economics research services in the field of promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace
 CATALYST <small>WORKPLACES THAT WORK FOR WOMEN</small>	5,512,867	Education services, namely, providing live and online seminars, discussions, speaking engagements, conferences, and symposia in the field of promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace
 CATALYST <small>WORKPLACES THAT WORK FOR WOMEN</small>	5,664,579	Downloadable audio files, video files, data files, and electronic publications in the nature of books, newsletters, articles, and reports, and DVDs and CDs all featuring educational and training information devoted to promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace
 CATALYST	5,852,332	Downloadable audio files, video files, data files, and electronic publications in the nature of books, newsletters, articles, and reports all featuring educational and training information devoted to promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace
CATALYST INCLUSION ACCELERATOR	6,397,071	Advisory, consulting, economics, and business research services in the field of promoting the interests of women, namely, issues of gender diversity and diversity and inclusion in the workplace; conducting business surveys, business studies, and preparing business reports on the issues of diversity and inclusion in the workplace

36. Catalyst also owns multiple registrations for CATALYST outside the United States, including the following registration in Canada:

Mark	Registration Number	Goods/Services
CATALYST	TMA504271	<p>Goods:</p> <p>(1) Publications namely books, brochures and research reports in the field of human resource development particularly as these relate to gender diversity and work life balance.</p> <p>Services:</p> <p>(1) Research and advisory services in the field of human resource development particularly as these relate to gender diversity and work life balance.</p> <p>(2) Executive search services namely recruitment of female directors for companies.</p>

II. Empathy Catalyst and Its Infringing Use of Catalyst's Trademarks

37. Empathy Catalyst displays its Empathy Catalyst Consulting name—which includes in its entirety Catalyst's CATALYST trademark—on all pages of its website (<empathycatalystconsulting.com>), including “Home,” “About,” “Team,” “Services,” “Pricing,” and “Contact.”



[Header on Empathy Catalyst's “Home” page]



empathy catalyst consulting

[Footer on all pages of Empathy Catalyst's website]

38. Like Catalyst, Empathy Catalyst's website and design mark are predominantly blue.

39. The "About" page of Empathy Catalyst's website bears the heading "Transform Your Workplace" and states: "Empathy Catalyst Consulting specializes in diversity, equity, inclusion, and workplace culture. We provide education, consultation, facilitation, mediation, and coaching." On this page, Empathy Catalyst additionally states that "[its] work is intersectional[,] anti-racist [and] anti-oppressive."

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1 Transform Your Workplace

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3 **Empathy Catalyst Consulting specializes in diversity, equity, inclusion, and workplace culture. We provide education, consultation, facilitation, mediation, and coaching.**

4 Here, we believe in utilizing empathy to honour, respect, and celebrate everyone's humanity in order to build a future where all of us can reach our highest potential.

5 We strive to empower everyone no matter where they are in their journey and encourage and entice curiosity to keep the learning going.

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8 **Our Values**

9 Empathy

10 Empowerment

11 Curiosity

12 Responsibility

13 Growth

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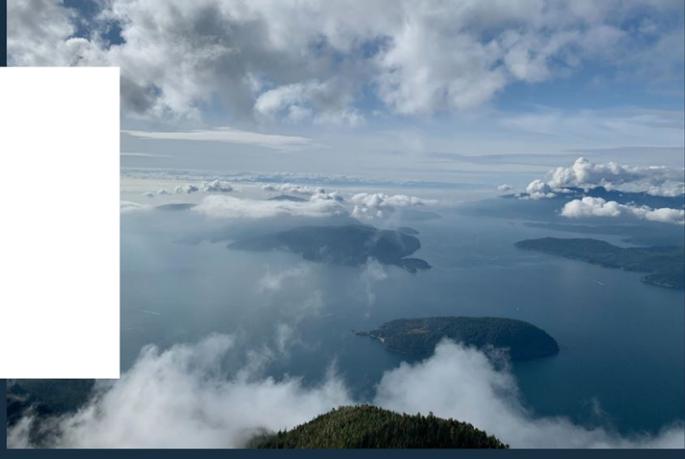
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Our Work Is

Intersectional

Anti-Racist

Anti-Oppressive

40. As advertised on the “Services” page of Empathy Catalyst’s website, Empathy Catalyst offers various workshops, such as: “Introduction to Diversity, Equity, and Inclusion” and workshops on unconscious bias and utilizing empathy; how to create an inclusive space; attracting diverse candidates; imposter syndrome (and its disproportionate effect on women and people of color); bystander intervention training; how to be an ally; and anti-oppression. Empathy Catalyst also offers Facilitation / Mediation / Coaching, through which Empathy Catalyst’s team members help organizations at various stages in their “DEI journey[s].”

Our Workshops

*workshops are 1.5~3 hours long

Introduction to Diversity, Equity, and Inclusion

Back To The Basics with this one! This workshop is designed to be a very introductory offering for those who are just starting out on their DEI journeys. This workshop is specifically designed for those who may have some resistance to the topic and approaches it in a way that engages and interacts with that resistance and works individuals through it.

Anti Oppression 102: Decolonization

In this workshop, we get deeper and tackle decolonization. What that means for an individual, and organization and a society. We will be discussing dismantling systemic racism and centralized white power.

Anti-Oppression 101

In this workshop, we take those who are at the beginning of their DEI journey and take them to the next level. We'll start introducing some broader concepts that will be a foundation for any future learning and leave you feeling empowered and curious to learn more.

Power Dynamics & Unconscious Bias: Utilizing Radical Empathy

*3 hours only

In order to discuss power dynamics and their impact on workplaces, organizations, and interpersonal relations, there needs to be an understanding of the inequities present in the society we live in.

In this workshop, we examine how to recognize privilege, identify power dynamics at play, and utilize them for equity and justice. Addressing power dynamics and unconscious bias requires new levels of awareness and nuance that this workshop will provide, along with the framework to do so.

*Co-facilitated by Morgan Switzer-Rodney and Alia Ali

What Is An Inclusive Space and How To Create It

"Safe Space" has become a buzz word but what does it even mean? In this workshop, we discuss what makes a space safe or not and how to be able to tell if the space you're occupying or overseeing is safe or not. We'll also teach you actionable accountability to make all the spaces you occupy more inclusive for those around us.

Bystander Intervention Training

Hate crimes have been on the rise since 2016 and have only gotten worse, targeting more and more marginalized folks. With the rise of harassment, implementing bystander intervention training can help you create a culture of safety and combat harassment not only in your workplace but also in the larger community. In this workshop, we look at why exactly bystanders have such a hard time intervening and how to do so safely and effectively. We take a community approach that is trauma-informed and recognizing the different privileges we all come to the table with.

Unconscious Bias 101: What Is It And Do I Have Any?

Here we'll discuss unconscious bias/ implicit bias, go through why we have them and when we are more susceptible to them. In this workshop, we'll discuss who has them and we use examples and scenarios based on your specific industry and teach you strategies on how to start tackling them and becoming aware of them.

Allyship 101: What Can I Do As An Individual?

At its core, DEI (diversity, equity, and inclusivity) is leadership development, and being able to incorporate that as an individual will change how you show up in the world. In this workshop, we focus on the personal development an individual can take to develop their leadership skills in DEI. We can't have empathy without personal responsibility.

Moving from Conflict Resolution to Conflict Transformation

Conflict is inevitable, where there are people, there will be conflict, but that doesn't have to be a bad thing. In this workshop, we look at the traditional conflict resolution lens and compare it to conflict transformation. We work on creating a culture where conflicts become an opportunity for connection instead of disconnection and an opportunity for growth and further cohesion.

Unconscious Bias 102: Employing Radical Empathy

In this workshop, we start off with a base understanding of unconscious bias and its prevalence of them. We then examine why it's so hard to address and how it impacts our day-to-day lives, as well as our professional lives. We will be learning actionable accountability every one of us can put into practice to be able to respect the dignity of all folks, by utilizing radical empathy to challenge the implicit bias present in us individually and in our organizations and systems.

Imposter Syndrome: How It Affects Your Workplace

Imposter Syndrome affects more than 70% of people and the opportunity cost is monumental for any organization. Imposter Syndrome also affects people of colour and women in greater numbers. In this workshop, we'll learn about the different types of Imposter Syndrome and how you can take tangible steps to tackle it.

Organizational Allyship: Inclusion Strategy

How do organizations practice their values instead of just professing them? In this workshop we'll look at what an organization can do to develop its inclusion strategies and play a positive impact in the community it's in. This workshop gets tailored to be industry-specific.

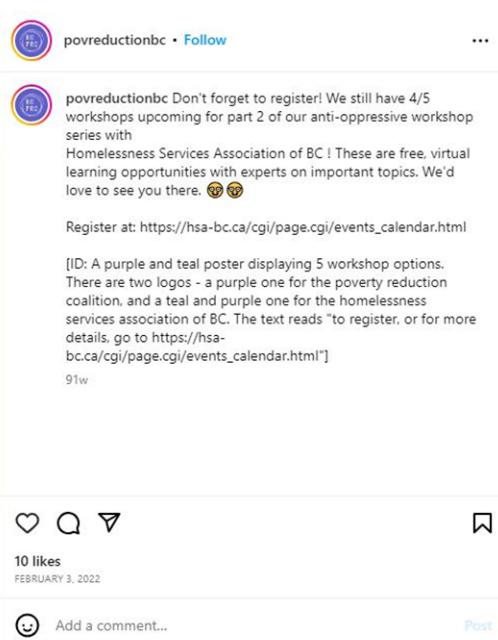
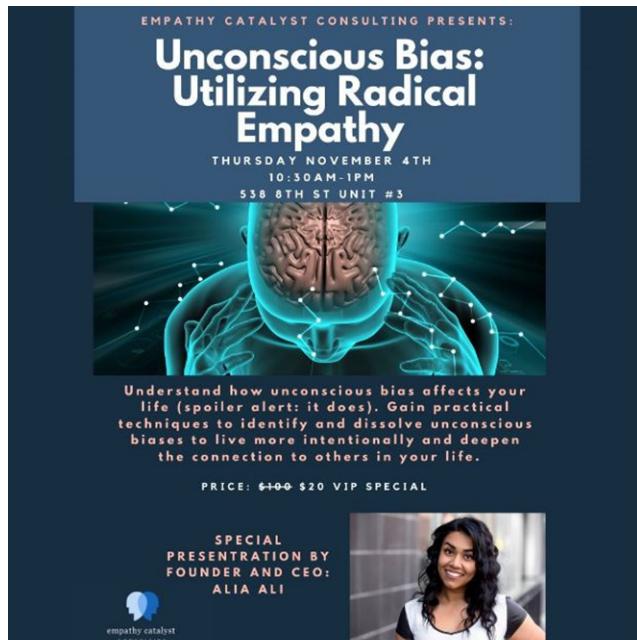
"Help! My Organization is All White!" Attracting More Diverse Candidates and Clients

When you look around at your company and clientele, is everyone white? Representation matters and in this workshop we cover why there isn't more diversity and look at organizations that do it well. We'll learn how not only to create attractive workplaces and companies for a diverse clientele but also how to make sure the space you're inviting them in isn't furthering harm and a place where they can thrive.

41. Empathy Catalyst charges for each of these services and, upon information and belief, is a for-profit business. Specifically, Empathy Catalyst charges between \$250 and \$600

1 per hour for its consulting services and workshops for businesses, with custom workshops priced
 2 at \$800 per hour.

3 42. Empathy Catalyst also uses the “Catalyst” mark to host events and to participate
 4 in events hosted by its client organizations:

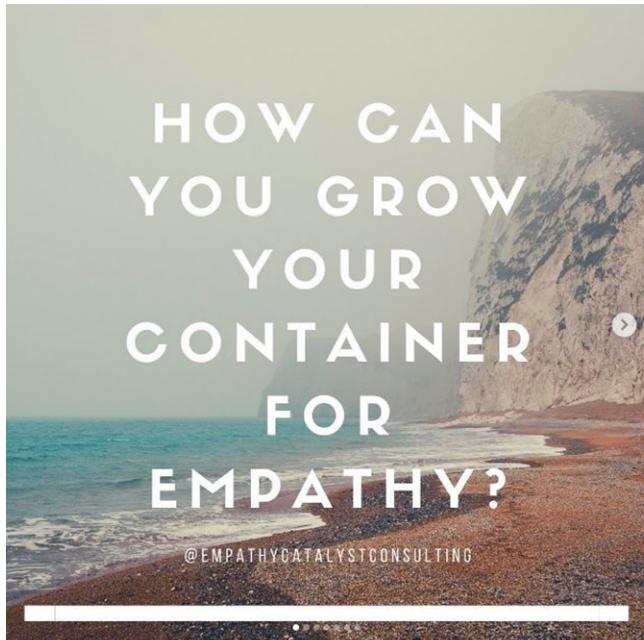


27 43. Although Empathy Catalyst is headquartered in Vancouver, Canada, and has a
 28 variety of Canadian clients, Empathy Catalyst, upon information and belief, also uses the

1 CATALYST mark to market itself and provide service to clients throughout the United States.
 2 Upon information and belief, Empathy Catalyst's U.S. clients include Big West Rotaract (San
 3 Jose, California), Montrose Recreation District (Montrose, Colorado), Montrose Black Canyon
 4 Rotary (Montrose, Colorado), the city of Montrose Colorado, and The Ready ("fully distributed
 5 across the U.S.," according to LinkedIn). Empathy Catalyst also hosts events in the U.S., as
 6 evidenced by the Unconscious Bias event in Hermosa Beach, California, above.

7 **44.** Additionally, Empathy Catalyst maintains a substantial social media presence,
 8 including on Instagram (@empathycatalystconsulting), LinkedIn, and Facebook, where it uses
 9 the name Empathy Catalyst Consulting. On all three platforms, Empathy Catalyst states that it
 10 "specializes in diversity, equity, and inclusion, and workplace culture," and also states, "We
 11 provide education, consultation, facilitation, mediation, and coaching." Empathy Catalyst's
 12 posts on these platforms concern DEI-related topics such as unconscious bias, empathy, allyship,
 13 and support for women, particularly women of color.





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empathycatalystconsulting I get asked a lot how I can have the capacity to do this work.

"Don't you get exhausted from this stuff?"
"Doesn't it feel like too much?"

Yes, yes of course.

Sometimes you have to just completely disconnect to engage with this stuff. Doing so means you're turning off your ability to feel so deeply because it feels like so much.

And I get it. Believe me I do. I haven't been able to stop thinking about the 9 year old survivor from the hate crime in Ontario. I keep thinking about the 215 children's graves found and the level of dehumanization you would need to murder and abuse a 3 year old.

Sometimes you gotta disconnect and I get that.

And, a part of my work is trying to figure out how to be in empathy and live this as a value. So I always try and find ways to



22 likes

JUNE 17, 2021



Add a comment...



Post



Alia Ali
@alia724



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empathycatalystconsulting How do you find a business coach, a therapist or any kind of support service as a woman of color?

These are some of the ways I've learned to find the right support I need.

Share with a woman of color in your life!
60w

As a woman of color, looking for coaches or support, I've come across a lot of grifters.

I've learned a couple ways to tell if the person you're considering can actually support your experience:



#woc #coaching #therapy #JEDI

5:23 PM · 2022-09-09 · Twitter for iPhone



29 likes

SEPTEMBER 9, 2022



Add a comment...



Post

23

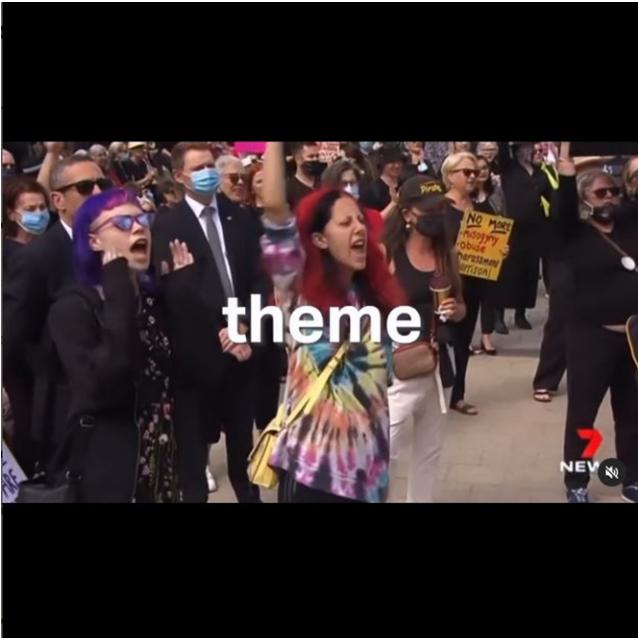
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27

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Original audio

empathycatalystconsulting On International Women's Day, we at ECC want to encourage you to bring some intention and intersectionality to the day and do 2 things to celebrate.

1. Take 5-10 minutes to reflect on the unseen and unpaid labour of the women around you. Think about the women in your life that inspire you and then go tell them so. Try and be specific.

2. Then think about one tangible thing you can do to support the trans community today. They are being targeted and legislated against. The hate/rhetoric against them has gotten much worse. Trans women are women. Make sure to broach the topic with your friends and family. Utilize your privilege in your spheres of influence. These are the areas you can make the biggest impact —with the people who trust and respect you.

Happy IWD! May we move away from worrying about looking good to doing good. 🌸

#internationalwomensday #iwd #iwd2023 #trans
#intersectionalfeminism #capitalism #transgender

11 likes

MARCH 8

Add a comment...



Post

45. Catalyst has been able to achieve remarkable success in empowering women and other underrepresented individuals in the workplace precisely because it has a carefully crafted reputation among companies seeking to advance diversity and inclusion in the workplace. Empathy Catalyst's use of the CATALYST mark for its services, which are nearly identical to services that Catalyst provides, is likely to cause confusion among Catalyst's partners and potential partners, which may decide to work with the wrong company or be dissuaded from partnering with Catalyst on the mistaken belief that they are already a client of Catalyst through their participation in Empathy Catalyst's services.

III. Catalyst Has Attempted, Without Success, To Resolve This Dispute Amicably

46. In late 2021, Catalyst, with the assistance of its counsel Debevoise & Plimpton LLP, began outreach to Empathy Catalyst to raise its concerns over its use of the Empathy Catalyst name and to request that it transition to a new name for its DEI consulting services.

47. On October 28, 2021, Catalyst sent a letter to Empathy Catalyst's founder and principal, Ms. Alia Ali, requesting that Empathy Catalyst transition to a new name that does not include CATALYST given the similarity of the Parties' names and services. Catalyst articulated its respect for Empathy Catalyst's mission and offered to work with Empathy Catalyst "to ensure

1 a seamless transition to a new name that [would] not cause [Empathy Catalyst] any harm or
 2 disruption.”

3 **48.** More than three months later, in February 2022, Empathy Catalyst’s Canadian
 4 counsel, Miller Titerle Law Corporation, responded and indicated that Empathy Catalyst refused
 5 to change its name.

6 **49.** Catalyst replied on March 2, 2022, reiterating its position as to Empathy
 7 Catalyst’s infringing use and again offering to work with Empathy Catalyst to transition to a new
 8 name for its company. Catalyst emphasized that, although a dictionary word, CATALYST is a
 9 “strong, protectable” mark for the core diversity and inclusion services that Catalyst provides.
 10 Catalyst added that it had diligently protected the mark throughout its 60-year history precisely
 11 because of the mark’s cruciality to Catalyst’s brand and identity.

12 **50.** Miller Titerle confirmed receipt of Catalyst’s letter on March 8, 2022.

13 **51.** From March 29, 2022, through October 3, 2022, Catalyst periodically followed up
 14 with Miller Titerle regarding any update as to Empathy Catalyst’s response, and was repeatedly
 15 told that Miller Titerle had not heard back from Empathy Catalyst.

16 **52.** On October 25, 2022, Miller Titerle informed Catalyst that it had been in touch
 17 with Empathy Catalyst, and a call was arranged between Empathy Catalyst and Miller Titerle
 18 and Catalyst and Debevoise & Plimpton.

19 **53.** The day of the scheduled call, November 3, 2022, Miller Titerle cancelled the call
 20 and informed Catalyst that “Ms. Ali [would] likely be retaining new counsel.” Miller Titerle
 21 provided Ms. Ali’s contact information to Catalyst at Catalyst’s request.

22 **54.** Catalyst never heard from Empathy Catalyst’s new counsel. Catalyst followed up
 23 with Ms. Ali in 2023 and indicated that it would be forced to file suit if the dispute was not
 24 amicably resolved, but Catalyst never received a response from Ms. Ali.

25 **55.** On February 27, 2024, Catalyst sent Ms. Ali a draft of this complaint and
 26 informed her that it intended to file the complaint if the parties could not amicably resolve the
 27 matter. Ms. Ali appeared receptive to a resolution and participated in a call with Catalyst’s then-
 28 CEO, Lorraine Hariton, but did not confirm she would stop Empathy Catalyst’s infringing use of

1 Catalyst's name. Ms. Ali has not responded to follow-up correspondence from Ms. Hariton and
 2 from Catalyst's Executive Director in Canada, Julie Cafley.

3 **COUNT I**

4 **(Registered Trademark Infringement Under
 Section 32 of the Lanham Act, 15 U.S.C. § 1114(1))**

5 **56.** Catalyst realleges and incorporates by reference each and every paragraph of this
 6 Complaint as if fully set forth herein and further alleges as follows:

7 **57.** Catalyst owns the CATALYST mark, which is covered by numerous registrations
 8 in the United States Patent and Trademark Office ("USPTO"). The CATALYST trademark is
 9 valid and subsisting, is used in commerce, is inherently distinctive, and also has acquired
 10 substantial secondary meaning by virtue of its extensive use in connection with goods and
 11 services related to diversity, equity, and inclusion and the empowerment of women in the
 12 workplace, including women from racially and ethnically marginalized groups. Several of the
 13 CATALYST trademark registrations are incontestable under Section 15 of the Lanham Act, 15
 14 U.S.C. § 1065.

15 **58.** Catalyst's mark and registrations have decades of priority over Empathy
 16 Catalyst's use of "Catalyst" for its DEI consulting services.

17 **59.** Empathy Catalyst's name and trademark is confusingly similar to Catalyst's
 18 registered CATALYST mark because it incorporates that mark in its entirety and adds only the
 19 descriptive terms EMPATHY and CONSULTING. The Parties use their Catalyst marks for
 20 highly similar DEI-related services. The additions of "Empathy" and "Consulting" in Empathy
 21 Catalyst's name do not mitigate, but rather emphasize, the confusing similarity of Catalyst's
 22 mark, since Catalyst is a consulting organization that also focuses on fostering empathy.

23 **60.** Empathy Catalyst's unauthorized use of "Catalyst" is likely to cause confusion or
 24 mistake with Catalyst's mark, or to deceive as to source, affiliation with or sponsorship by
 25 Catalyst, in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

26 **61.** Specifically, Empathy Catalyst's unauthorized use of "Catalyst" is likely to cause
 27 organizations and businesses to believe, incorrectly, that Empathy Catalyst's services originate
 28 from, or have been authorized, sponsored, approved, or endorsed by Catalyst, or that Empathy

1 Catalyst's services and/or business are otherwise connected to, sponsored by, or affiliated with
2 Catalyst in some way; in reality, Catalyst does not approve of Empathy Catalyst's unauthorized
3 use of its trademark for its own business and services.

4 **62.** As a result of Empathy Catalyst's trademark infringement, Empathy Catalyst is
5 likely to cause irreparable harm to Catalyst and the goodwill associated with the CATALYST
6 mark. The extent of this harm cannot be ascertained at this time, leaving Catalyst no adequate
7 remedy at law. Catalyst is therefore entitled to, *inter alia*, injunctive relief.

COUNT II

**(Trademark Infringement Under
Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a))**

11 **63.** Catalyst realleges and incorporates by reference each and every paragraph of this
12 Complaint as if fully set forth herein and further alleges as follows:

13 **64.** Catalyst has common law trademark rights in the CATALYST mark, which is
14 uniquely associated with CATALYST as a source of goods and services related to diversity,
15 equity, and inclusion, and the empowerment of women in the workplace, including women from
16 racially and ethnically marginalized groups. The CATALYST trademark is used in commerce,
17 is inherently distinctive, and also has acquired substantial secondary meaning by virtue of its
18 extensive use in connection with goods and services related to diversity, equity, and inclusion,
19 and the empowerment of women in the workplace, including women from racially and ethnically
20 marginalized groups.

65. Catalyst's use of the CATALYST mark predates Empathy Catalyst's use of
"Catalyst" by decades, and Catalyst's right to the mark has priority over Empathy Catalyst's use.

23 **66.** Empathy Catalyst’s name (Empathy Catalyst Consulting) contains Catalyst’s
24 CATALYST mark in its entirety. Moreover, the additions of “Empathy” and “Consulting” in
25 Empathy Catalyst’s name do not mitigate, but rather emphasize, Empathy Catalyst’s use of
26 Catalyst’s mark, since Catalyst is a consulting organization that also focuses on fostering
27 empathy.

28 67. Empathy Catalyst's use of "Catalyst" is likely to cause confusion or mistake with

1 Catalyst's mark, or to deceive as to source, affiliation with or sponsorship by Catalyst, in
 2 violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

3 **COUNT III**

4 **(Unfair Competition Under**
 5 **California Business & Professions Code § 17200 et seq.)**

6 48. Catalyst realleges and incorporates by reference each and every paragraph of this
 7 Complaint as if fully set forth herein and further alleges as follows:

8 49. Catalyst owns the CATALYST mark, which is covered by numerous registrations
 9 in the United States Patent and Trademark Office (“USPTO”). The CATALYST trademark is
 10 valid and subsisting, is used in commerce, is inherently distinctive, and also has acquired
 11 substantial secondary meaning by virtue of its extensive use in connection with goods and
 12 services related to diversity, equity, and inclusion and the empowerment of women in the
 13 workplace, including women from racially and ethnically marginalized groups. Several of the
 14 CATALYST trademark registrations are incontestable under Section 15 of the Lanham Act, 15
 15 U.S.C. § 1065.

16 50. Catalyst’s mark and registrations have decades of priority over Empathy
 17 Catalyst’s use of “Catalyst” for its DEI consulting services.

18 51. Empathy Catalyst’s name and trademark is confusingly similar to Catalyst’s
 19 registered CATALYST mark because it incorporates that mark in its entirety and adds only the
 20 descriptive terms EMPATHY and CONSULTING. The Parties use their Catalyst marks for
 21 highly similar DEI-related services. The additions of “Empathy” and “Consulting” in Empathy
 22 Catalyst’s name do not mitigate, but rather emphasize, the confusing similarity of Catalyst’s
 23 mark, since Catalyst is a consulting organization that also focuses on fostering empathy.

24 52. Empathy Catalyst’s unauthorized use of “Catalyst” is likely to cause confusion or
 25 mistake with Catalyst’s mark, or to deceive as to source, affiliation with or sponsorship by
 26 Catalyst, in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

27 53. Specifically, Empathy Catalyst’s unauthorized use of “Catalyst” is likely to cause
 28 organizations and businesses to believe, incorrectly, that Empathy Catalyst’s services originate

1 from, or have been authorized, sponsored, approved, or endorsed by Catalyst, or that Empathy
 2 Catalyst's services and/or business are otherwise connected to, sponsored by, or affiliated with
 3 Catalyst in some way; in reality, Catalyst does not approve of Empathy Catalyst's unauthorized
 4 use of its trademark for its own business and services.

5 **74.** Additionally, Catalyst has common law trademark rights in the CATALYST
 6 mark, which is uniquely associated with CATALYST as a source of goods and services related
 7 to diversity, equity, and inclusion, and the empowerment of women in the workplace, including
 8 women from racially and ethnically marginalized groups. The CATALYST trademark is used in
 9 commerce, is inherently distinctive, and also has acquired substantial secondary meaning by
 10 virtue of its extensive use in connection with goods and services related to diversity, equity, and
 11 inclusion, and the empowerment of women in the workplace, including women from racially and
 12 ethnically marginalized groups.

13 **75.** Catalyst's use of the CATALYST mark predates Empathy Catalyst's use of
 14 "Catalyst" by decades, and Catalyst's right to the mark has priority over Empathy Catalyst's use.

15 **76.** Empathy Catalyst's name (Empathy Catalyst Consulting) contains Catalyst's
 16 CATALYST mark in its entirety. Moreover, the additions of "Empathy" and "Consulting" in
 17 Empathy Catalyst's name do not mitigate, but rather emphasize, Empathy Catalyst's use of
 18 Catalyst's mark, since Catalyst is a consulting organization that also focuses on fostering
 19 empathy.

20 **77.** Empathy Catalyst's use of "Catalyst" is likely to cause confusion or mistake with
 21 Catalyst's mark, or to deceive as to source, affiliation with or sponsorship by Catalyst, in
 22 violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

23 **78.** As a result of Empathy Catalyst's registered and common law trademark
 24 infringement under the Lanham Act, which constitute unfair competition in violation of Cal. Bus.
 25 & Prof. Code § 17200 *et seq.*, Empathy Catalyst is likely to cause irreparable harm to Catalyst
 26 and the goodwill associated with the CATALYST mark. The extent of this harm cannot be
 27 ascertained at this time, leaving Catalyst no adequate remedy at law. Catalyst is therefore
 28 entitled to, *inter alia*, injunctive relief.

COUNT III**(Trademark Infringement Under
California Common Law)**

79. Catalyst realleges and incorporates by reference each and every paragraph of this
Complaint as if fully set forth herein and further alleges as follows:

80. Catalyst has common law trademark rights in the CATALYST mark, which is
uniquely associated with CATALYST as a source of goods and services related to diversity,
equity, and inclusion, and the empowerment of women in the workplace, including women from
racially and ethnically marginalized groups. The CATALYST trademark is used in commerce,
is inherently distinctive, and also has acquired substantial secondary meaning by virtue of its
extensive use in connection with goods and services related to diversity, equity, and inclusion,
and the empowerment of women in the workplace, including women from racially and ethnically
marginalized groups.

81. Catalyst's use of the CATALYST mark predates Empathy Catalyst's use of
"Catalyst" by decades, and Catalyst's right to the mark has priority over Empathy Catalyst's use.

82. Empathy Catalyst's name (Empathy Catalyst Consulting) contains Catalyst's
CATALYST mark in its entirety. Moreover, the additions of "Empathy" and "Consulting" in
Empathy Catalyst's name do not mitigate, but rather emphasize, Empathy Catalyst's use of
Catalyst's mark, since Catalyst is a consulting organization that also focuses on fostering
empathy.

83. Empathy Catalyst's use of "Catalyst" is likely to cause confusion or mistake with
Catalyst's mark, or to deceive as to source, affiliation with or sponsorship by Catalyst.

84. Empathy Catalyst's use of "Catalyst" therefore constitutes infringement of
Catalyst's trademarks in violation of California common law.

PRAYER FOR RELIEF

WHEREFORE, Catalyst respectfully requests that this Court enter judgment in its favor
on each and every claim for relief set forth above and award it relief including, but not limited to,
an Order:

A. Finding that, by the acts complained of above, Empathy Catalyst has infringed Catalyst's trademarks in violation of 15 U.S.C. §§ 1114(1) and 1125(a); California Business and Professions Code § 17200 *et seq.*; and California common law;

B. Entering a permanent injunction enjoining Empathy Catalyst from any further use of Catalyst's "Catalyst" trademarks;

C. Awarding to Catalyst its costs and reasonable attorneys' fees in this action;

D. Such other and further relief as this Court deems just, equitable, and proper.

Dated: April 29, 2024

Respectfully submitted,

By: s/David H. Bernstein

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